

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

74-2493

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Appendix
Michael Alston



PAGINATION AS IN ORIGINAL COPY

74-2493

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 74-2493

UNITED STATES OF AMERICA
PLAINTIFF-APPELLEE
VS.
MICHAEL ALSTON
DEFENDANT-APPELLANT

APPENDIX TO BRIEF OF
DEFENDANT--APPELLANT

DAVID N. ROSEN
COUNSEL FOR DEFENDANT-APPELLANT
265 CHURCH STREET
NEW HAVEN, CONNECTICUT 06510
203 787-3513

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DATE 1974	PROCEEDINGS
6/25	HASKINS: CJA Form 20 appointing John R. Williams, Esq., to represent defendant, filed. Newman, J. Copies distributed.
6/26	SIMMONS: CJA Form D appointing Thomas D. Clifford, Federal Public Defender, to represent defendant, filed and entered. Newman, J. m-6/26/74.
6/28	ALSTON: PLEA: Defendant remains mute. Plea of not guilty entered to Counts 1, 2, 3 and 4 by the Court. Case continued on bond of \$100,000 with surety. Attorney David Rosen appointed guardian ad litem. Standing Order of the Court will apply to this case. Newman, J. m-6/28/74.
6/28	HASKINS: PLEA: Defendant remains mute. Plea of not guilty entered to Counts 1, 2, 3 and 4 by the Court. Case continued on bond of \$100,000.00, with surety. Standing Order of Court will apply to this case. Newman, J. m-6/28/74.
6/28	SIMMONS: PLEA: Defendant remains mute. Plea of not guilty entered to Counts 1, 2, 3 and 4 by the Court. Case continued on bond of \$100,000.00, with surety. Standing Order of Court will apply to this case. Newman, J. m-6/28/74.
7/2	SIMMONS, HASKINS, ALSTON: Motion to Suppress Identification Testimony, Motion to Suppress Statements, and Motion to Suppress Evidence, filed by defendants.
8/6	SIMMONS, HASKINS, ALSTON: Court Reporter's Notes of proceedings held on June 28, 1974 (Pleas), filed. Gale, R.
"	SIMMONS, HASKINS, ALSTON: Court Reporter's Sound Recording of proceedings held on June 28, 1974 (Pleas), filed. Gale, R.
8/20/	ALSTON: CJA Form 21 authorizing Investigator H. Paul Rinker to interview witnesses, filed. Newman, J. Copies distributed.
8/20	HASKINS: Motion to Prohibit Interference with Attorney-Client Relationship, filed by defendant.
8/28	SIMMONS: Motion to Stay the Proceeding, to Strike the Jury Panel and For a Supplemental Order Concerning the Selection of Prospective Petit Jurors, filed by defendant.
8/30	ALSTON: Motion to Prohibit Interference With Attorney-Client Relationship, filed by defendant.
9/9	HASKINS: Motion to Stay the Proceeding, to Strike the Jury Panel and for a Supplemental Order Concerning the Selection of Prospective Petit Jurors.
9/9	HASKINS: Brief in Support of Motion to Prohibit Interference With Attorney-Client Relationship, filed by defendant.
9/10	HASKINS: Motion for Service of Subpoenas at Government Expense, filed by defendant.
9/10	ALSTON: Motion for Service of Subpoenas at Government Expense, filed by defendant.
9/9	HASKINS: CJA Form 21 authorizing services of Paul Rinker, Investigator, filed. Newman, J. Copies distributed.
9/10	HASKINS: Motion for Service of Subpoenas at Government Expense endorsed as follows: Motion Granted as to Wardens of Community Correctional Centers at Hartford and Brooklyn; denied as to Commissioners Manson and Lopes. Newman, J. m-9/10/74. Copies mailed to counsel.
9/10	ALSTON: Motion for Service of Subpoenas at Government Expense endorsed as follows: Motion Granted. Newman, J. m-9/10/74. Copies mailed to counsel.
9/16	SIMMONS: Motion to Join Co-Defendants' Motions, filed by defendant.
9/13	MOTION to Quash Subpoenas, filed by Assistant Attorney General for State of Connecticut on behalf of John R. Manson, Commissioner of Corrections.

DATE	PROCEEDINGS
1974	
9/13	Appearance of Stephen J. O'Neill, Assistant Attorney General for the State of Connecticut, filed on 9/13 of John R. Manson, Commissioner of Corrections in connection with Motion by defendants Prohibiting Mr. Manson from opening and/or inspecting their mail.
9/13	Objection to Defendants' Motions to Prohibit Interference with Attorney-Client Relationship, filed.
9/13	Marshal's Return Showing Service, filed: 3 subpoenas to testify.
9/18	Hearing held on (1) Defendants' Motions to Suppress and (2) Defendant Haskins' Motion to Prohibit Interference with Attorney-Client Relationship. Court hears argument on Motion of Conn. Corrections Commissioner John R. Manson re alleged mail issue. Agreement reached by the parties and approved by the Court as to delivery of mail to defendants-inmates. Suppression hearing: Four Government witnesses sworn and testified Court Ex. #1 and 2, marked for Ident. Govt. Ex. A and B, marked for Ident. Govt. Ex. A-1, A-2, A-3, C-2, C-3 and C-4, filed. Govt. Ex. C-1, marked for Ident. Deft. Ex. #1, 2 and 3, filed. Newman, J. m-9/19/74. Hearing continued to Monday, Sept. 23, 1974 at 10:30 A.M.
9/19	Motion to Suppress Evidence Derived from Unlawful Electronic Surveillance, filed by all defendants.
9/23	Continued hearing on (1) Defendants' Motion to Suppress and (2) Defendant Haskins' Motion to Prohibit Interference with Attorney-Client Relationship. 3 defendants' witnesses sworn and testified. 4 Government witnesses sworn and testified. Government Exhibits D-1 thru D-4, filed. Government Exhibit B made full exhibit. Court Exhibits 3, 4, 5, 6 and 7 marked for identification. Government Exhibits E, E-1 thru E-12 and F, F-1 thru F-4, marked for identification. Government Exhibits G, G-1 thru G-12 made full exhibits. Defendants move for transcripts of statements of identification witnesses. Decision reserved. Court adjourned at 4:05 P.M. to Tuesday, September 24, 1974, at 2:00 P.M. Newman, J. m-9/24/74.
9/24	SIMMONS, HASKINS, ALSTON: JURY TRIAL COMMENCES: Defendant's (Alston) Proposed Questions on Voir Dire Examination, filed. Defendant's (Simmons) Submission of Voir Dire Questions, filed. Defendant's (Simmons) Motion for An Individual Voir Dire, filed. Joined in by other two defendants. Defendant's (Haskins) Proposed Voir Dire Questions, filed. Court reviews voir dire questions. Motion for Individual Voir Dire, denied. Defendants' joint Motion to Incorporate Gonzalez Record, granted; as to challenge it is denied. Motions to Dismiss, filed by defendants Simmons and Haskins. Defendants' Motion to Introduce themselves to the jury, granted. Court allows Government 8 challenges and defendants 24, including alternates. 3:10 p.m. Jury enters courtroom (67 jurors present). Court introduces attorneys and defendants to panel. Court describes case on trial and jurors interrogated by the court as to their qualifications. 3:55 p.m. Jurors who have heard or read about case return to jury room. Due to number of jurors court allows Government 6 challenges and defendants 18. 4:30 p.m. Remaining 20 jurors leave courtroom and summoned one by one by the court and interrogated. 2 jurors accepted by both sides. 5:00 p.m. Entire jury panel enters courtroom and excused to 10:00 a.m., Sept. 25, 1974. 5:15 p.m. Court adjourned. Newman, J. m-9/25/74.
9/24	On JON's Jury Assignment List. Ready #1. Jury impanelling commenced. Newman, J. m-9/26/74.
9/25	JURY TRIAL CONTINUES: Motion for free transcripts filed by defendant Haskins. Continued jury selection. 65 jurors present.

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DATE	PROCEEDINGS
9/25	Court allows defendants total of 4 conditional extra challenges. If the panel is not completed at the conclusion of the interrogation of remaining 26 jurors, the Court will undo the first conditional challenge and make that juror part of the panel and so on until there are 12 jurors and 2 alternates. 9 jurors accepted by both sides. 4:40 p.m. remaining jurors enter courtroom and excused to 10:00 a.m. September 27, 1974. Court adjourned to Friday. Newman, J. m-9/26/74.
9/27	JURY TRIAL CONTINUES: Continued jury selection. 30 jurors present. Court allows 2 additional challenges with respect to alternate One additional juror and two alternates accepted by both sides. 2:35 p.m. Jury selected enters courtroom and 12 jurors and two alternate impanelled and sworn. 2:45 p.m. Jury excused until notified to report by court. Continued hearing on defendants' Motion to Dismiss. Defendants' Ex. 4 filed. Decision reserved. Continued hearing on defendants' Motion to Suppress. Ralph Cimino previously sworn resumes stand and testifies. Defendants' Ex. 5 (Court Ex. 5), filed. Court Ex. 8 marked for identification. 1 Government witness sworn and testified. Government Ex. G marked for identification. Hearing on defendants' Motion for Free Transcript, denied. Defendants' Motion to Dismiss, denied. 5:15 p.m. Court adjourned to Sept. 30, 1974 at 10:00 a.m. Newman, J. m-9/30/74.
9/30	HASKINS, SIMMONS, ALSTON: Court Reporter's Notes of proceedings held on Sept. 24, 25 & 27, 1974 (Trial), filed. Gale, R. (3 pgs)
9/30	JURY TRIAL CONTINUES: Continued hearing on Defendants' Motion to Suppress. Points and authorities in support of Motion for Free Transcripts, filed by defendant Haskins. Witness Sweeney resumes stand for continued cross-examination. Defendants' Ex. 6, filed. Court Exhibits 9, 10 and 11, filed. Attorney Clifford reports to court that his client wishes that he withdraw from the case. Court will not allow Atty. Clifford to withdraw but defendant Simmons may proceed pro se. Defendant Simmons renews Motion to Challenge Jury Array, denied. Defendant Simmons renews Motion to Dismiss, denied. 4 Government witnesses sworn and testified. Government Exhibits F, F-1 thru F-4 admitted as full exhibits. Government Exhibits H, H-1 thru H-15, I, I-1 thru I-4, marked for identification. Government Exhibit H made full exhibit. Attorney Rosen submits subpoena to court on behalf of defendant Alston. Court rules subpoena may issue. 3:55 p.m. Court adjourned to Wednesday, Oct. 2, 1974 at 10:00 a.m. Newman, J. m-10/1/74.
10/2	Court holds closed hearing on defendants' renewed challenge to a juror. Motion to challenge denied. Defendant Simmons' oral motion to disqualify Judge Newman, denied. Continued hearing on motion to suppress. 5 Government witnesses sworn and testified. Government witness James Grasso previously sworn resumes stand and testified. Court Exhibits 12, 13, 14, 15 and 16 marked for identification. Motion by Atty. Rosen to have law student intern Pam Samuelson admitted for the purpose of this case, denied. Appearance form, filed. Court Exhibits 17 and 18 marked for identification. Government Exhibits J, J-1 thru J-3, K, K-1 thru K-4, filed. Government Exhibits G, H-1 thru H-15, I, I-1 thru I-4, admitted as full exhibits. At bench, Court Exhibit 19 marked for identification and sealed per order of the Court. 5:10 p.m. Court adjourned to 9:30 a.m. October 3, 1974. Newman, J. m-10/3/74.
10/3	Marshal's Return showing service, filed: Subpoena (1).

DATE	PROCEEDINGS
1974	
10/3	Continued hearing on Motion to Suppress. Court Exhibits 20, 21 and 22 marked for identification. 6 Government witnesses sworn and testified. Government Exhibits L, L-1 thru L-13, N, N-1 thru N-10, O and P, filed. Government Exhibits M, M-1 thru M-11 marked for identification. Government Exhibits M, M-1 thru M-11 admitted as full exhibits. 5:30 p.m. Court adjourned to Oct. 4, 1974 at 10:00 a.m.
10/4	Continued hearing on Motion to Suppress. 1 Government witness sworn and testified. Court Ex. 23 marked for identification. Government Exs. Q and R-1 thru R-9, filed. Defendant Haskins sworn and testified on own behalf. Government witness Michael Sweeney, previously sworn, resumes stand and testified. Hearing on motion to withdraw in toto filed by Attorney Clifford. Decision reserved. Defendants' oral motion for certain portions of testimony of certain witnesses - decision reserved. At the Bench, Court Ex. 24 marked for identification and sealed upon order of the Court, to be opened and inspected only upon order of another Court. Newman, J. m-10/7/74.
10/7	JURY TRIAL CONTINUES (evidence commences): Public Defender Clifford's motion to withdraw as counsel for defendant Simmons is denied and he will be available to defendant for consultation and advice. Oral ruling on Motion to Suppress Identification - granted as to witnesses Gambardella and Stonski; denied as to all other witnesses. Motion to Suppress re powder residue is denied; Court defers ruling on statements. Court Exs. 25, 26 and 27 marked for identification. 11:20 a.m. 12 jurors and 2 alternates present. 3 Government witnesses sworn and testified. In absence of proof. Government witness Soo Kyung sworn and testified on offer Oct. 8, 1974 at 10:00 a.m. 4:01 p.m. jury excused until Oct. 8, 1974 at 9:45 a.m. Newman, J. m-10/7/74.
10/8	JURY TRIAL CONTINUES: Court Exhibits 28, 29, 30 and 31 marked for identification. 5 Government witnesses sworn and testified. Defendant Haskins' offer of proof on motion to suppress testimony of witness, denied. 12:15 p.m. jury enters courtroom. 12 jurors and 2 alternates present. Government Exhibits T, U, V, W, X and Y marked for identification. 5:12 p.m. Court adjourned until Oct. 9, 1974 at 10:00 a.m. Newman, J. m-10/9/74.
10/9	JURY TRIAL CONTINUES: Defendants' (Haskins and Alston) oral motion for severance, denied. Oral motion of defendant Simmons to disqualify Judge Newman, denied. 10:25 a.m. jury enters courtroom. 12 jurors and 2 alternates present. Government witness Diane Tokarz resumes stand for further testimony. Court Exhibits 32, 33, 34, 35 and 36 marked for identification. 5 Government witnesses sworn and testified. Witness Gambardella recalled in absence of jury for further testimony. 12:20 p.m. jury re-enters courtroom. Government Exhibits Z, AA and BB marked for identification. Government Exhibit AA admitted as full exhibit. 4:55 p.m. Court adjourned to Oct. 11, 1974 at 9:30 a.m. Newman, J. m-10/9/74.
10/10	Court Reporter's Notes of proceedings held on Sept. 18, 1974 (Motions), filed. Gale, R.
10/10	Court Reporter's Notes of proceedings held on Sept. 23, 27, 30, Oct. 2, 3 and 4 (Motions & Trial), filed. Gale, R. (5 pads)
10/9	HASKINS: CJA Form 21 authorizing and approving payment of

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DATE 1974	PROCEEDINGS
	sum of \$102.60 to Court Reporter Gerald Gale for portions of transcript of pretrial hearings for use at trial, filed. Newman, J. Copies distributed.
"	SIMMONS: CJA Form 21 authorizing and approving sum of \$102.60 to Court Reporter Gerald Gale, for portions of transcript of pretrial hearings for use at trial, filed. Newman, J. Copies distributed.
"	ALSTON: CJA Form 21 authorizing and approving payment of sum of \$102.60 to Court Reporter Gerald Gale for portions of transcript of pretrial hearings for use at trial, filed. Newman, J. Copies distributed.
10/11	JURY TRIAL CONTINUES: Court Exhibits 37, 38 and 39 marked for identification. 10:10 a.m. Jury enters courtroom, 12 jurors and 2 alternates present. 4 Government witnesses sworn and testified. Government Exhibits T, U and V admitted as full exhibits. Government Exhibits CC, EE and FF filed. Government Exhibit DD marked for identification. In absence of jury Court discusses testimony to be brought in with offer of proof by Government. 12:00 noon jury re-enters courtroom. 12:55 p.m. jury excused to Tuesday at 10:00 a.m. Defendants' oral motion for a mistrial, denied. 1:03 p.m. Court adjourned to Oct. 15, 1974 at 9:30 a.m. Newman, J. m-10/15/74.
10/15	CJA Form 21 authorizing and approving payment of sum of \$300.00 to Paul Rinker, Investigative Associates, for services, filed. Newman, J. (HASKINS). Copies distributed.
10/15	Continued hearing on Motion to Suppress. Court Ex. 40 marked for identification. 1 Government witness sworn and testified. Defendants' Ex. 7 filed (Court Ex. 40 on Motion to Suppress). Court rules portions of testimony of Witness Baker is admissible. Defendant Haskins' oral motion for severance, denied. Court discusses testimony to be brought in with offer of proof by counsel for defendant Alston. JURY TRIAL CONTINUES: 10:50 a.m. jury enters courtroom, 12 jurors and 2 alternates present. Court Exhibits 41 and 42 marked for identification. 4 Government witnesses sworn and testified. Government Exhibit DD admitted as full exhibit. Government Exhibits GG, HH, and II filed. Defendants' Ex. 8 marked for identification. Government Exhibits JJ, KK, LL and MM marked for identification. In absence of jury Court discusses testimony to be brought in with offer of proof by counsel for defendant Haskins. Defendant Haskins' oral motion to sever, denied. Defendant Alston's oral motions to sever and for mistrial, denied. Court inquires of defendant Simmons on behavior during courtroom procedure. Defendant Haskins' motion for mistrial, denied. 4:30 p.m. jury re-enters courtroom. Continued examination of Witness Baker. 4:58 p.m. jury excused to 10:00 a.m. Oct. 16, 1974.
10/16	5:08 p.m. Court adjourned to 10:00 a.m. Oct. 16, 1974. JURY TRIAL CONTINUES: Government reports one witness is sick and requests leave to reopen case if concluded today. Court grants motion to suppress signing of warning cards as to Simmons and Haskins. Continued hearing to suppress. 2 Government witnesses sworn and testified. Court Exhibit 43 marked for identification. Government Exhibits NN-1, NN-2 and NN-3 marked for identification at suppression hearing. Government witness Northrup resumes stand for continued direct. Government Exhibit OO marked for identification. 11:45 a.m. jury enters courtroom. Court Exhibits 44 and 45 marked for identification. 2 Government witnesses sworn and testified. Government Exhibits KK and OO made full exhibits. Government Exhibits NN-1, NN-2 and NN-3 made full exhibits for suppression hearing. Government

continued

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1974

PROCEEDINGS

Exhibits PP, QQ, RR, SS, TT, UU marked for identification.
1:00 p.m. jury excused from courtroom. After consultation with each defendant and counsel, the defendants are removed from courtroom for the remainder of this day. Defendants Maskins and Alston move for mistrial and severance. Motions denied. Defendant Maskins' motion to strike testimony of witness Baker is denied. Witness Baker may be recalled. 4:30 p.m. jury enters courtroom. Defendants are not present. Court Exhibit 46 marked for identification. 1 Government witness sworn and testified. Government Exhibits VV, WW and XX marked for identification. Government Exhibits VV, WW and XX made full exhibits. 5:00 p.m. jury excused until Oct. 17, 1974 at 10:20 a.m. Court withdraws its ruling on defendant Maskins' motion to strike testimony of witness Baker and gives option to defense counsel whether they will claim a mistrial or be satisfied with just the striking of said testimony. Counsel will advise court in the morning. 5:05 p.m. Court adjourned until Oct. 17, 1974 at 10:00 a.m. Newman, J. m-10/17/74.

10/17 JURY TRIAL CONTINUES: Court inquires of defendant Simmons, and of defendants Maskins and Alston individually on their behavior during future courtroom proceedings. Court Exhibit 47 marked for identification. Defendants' motion to strike testimony of Officer Baker is granted and motion for mistrial denied. 11:07 jury enters courtroom, 12 jurors and 2 alternates present. Court informs jury all testimony of Officer Baker is no longer a part of this case. Court Exhibits 48, 49, 50, 51, 52, 53, 54 and 55 marked for identification. 6 Government witnesses sworn and testified. Government Exhibits YY, AC, AE, AI marked for identification. Defendants' motion to strike testimony of Witness Giannotti denied. Government Exhibits ZZ, AB, AD, AF, AG, AH filed. Government Exhibits JJ, LL, PP, QQ, RR, SS, TT, UU, VV, W, Z and AE admitted as full exhibits. Government Witness Broni resumes stand and testifies. 3:03 p.m. Government rests with leave to call one additional witness. 4 defendants' witnesses sworn and testified. 4:35 p.m. Court adjourned to Oct. 18, 1974 at 10:00 a.m. Newman, J. m-10/18/74.

10/18 JURY TRIAL CONTINUES: 12 jurors and 2 alternates present. Court Exhibit 56 marked for identification. 1 Government witness sworn and testified. Government Exhibit W admitted as full exhibit. Government Exhibit AJ filed. 10:24 a.m. Government rests. Two defendants' witnesses sworn and testified. Defendant Maskins sworn and testified on his own behalf. In absence of jury counsel for defendant Simmons requests that he be permitted pro se summation of his case to the jury - decision reserved. 12:00 N. jury enters courtroom. Continued examination of defendant Maskins. Defendant Exhibit 9 marked for identification. 12:45 p.m. defendant Maskins rests. Defendant Alston sworn and testified on his own behalf. 1:00 - 2:00 p.m. Court recess. Continued examination of defendant Alston. 2:32 p.m. defendant Alston rests. Defendant Simmons sworn and testified. 3:16 p.m. defendant Simmons rests. Jury recess. All defendants make oral motion for judgment of acquittal on Count 4. Court rules that Count 4 will not go to the jury. Request of defendant Maskins for instructions to the jury, filed. 3:26 p.m. jury enters courtroom and is excused to Tuesday at 10:00 a.m. Government requests for jury instructions filed. Court hears counsel on

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DATE 1974	PROCEEDINGS
	requests to charge. Court rules on requests to charge. Court will allow defendant Simmons to present his case to the jury. Weapons will not go to the jury room. Amended Indictment to be submitted. 5:14 p.m. Court adjourned to 9:30 a.m., Oct. 22, 1974. Newman, J. m-10/21/74.
10/21	ALSTON: Request of Defendant For Instructions to the Jury, filed by defendant.
10/18	HASKINS: CJA Form 21 authorizing and approving sum of \$125.00 to be paid to Alan S. Kay, Photographer, for services, filed. Newman, J. Copies distributed.
10/22	JURY TRIAL CONTINUES: Court rules on requests to charge. Court puts on record comment by juror to one court personnel at close of this case on Friday. 10:10 a.m. 12 jurors and 2 alternates enter courtroom. Summation: Government opens 10:11 - 10:40 a.m. Defendant Simmons 10:46 - 11:19 a.m. Recess. Summation continues: Counsel for defendant Alston 11:33 - 11:51 a.m. Counsel for defendant Haskins 11:51 a.m. - 12:15 p.m. Government closes 12:15 - 12:20 p.m. Court's charge 1:42 - 2:23 p.m. 2:23 p.m. 12 jurors retire to jury room. Alternate jurors excused. Government counsel takes exceptions to charge. All defense counsel take exceptions to charge. No further charge given. 2:37 p.m. Exhibits, Indictment taken to the jury room and jury starts to deliberate. 5:45 p.m. note from jury. Court Ex. 57 marked for Identification. 5:50 p.m. jury enters courtroom. Court gives supplemental instruction to jury. 5:55 p.m. jury retires to jury room to consider whether to continue deliberations or return tomorrow. 6:05 p.m. note from jury. 6:07 jury enters courtroom. Court Ex. 58 marked for identification. 6:10 p.m. jury excused to 10:00 a.m. Oct. 23, 1974 and to start to deliberate when all 12 are present. 6:15 p.m. Court adjourned to 10:00 a.m. Oct. 23, 1974. Newman, J. m-10/22/74.
10/23	JURY TRIAL CONTINUES: 12 jurors report to jury room. Exhibits, for of verdict and Indictment sent to jury room and deliberations continue. 12:25 p.m. jury returns to courtroom with following verdicts: Defendants Simmons, Haskins and Alston guilty on each of Counts 1, 2 and 3. Jury polled and all answer in the affirmative. Court orders written verdict accepted and filed. 12:35 p.m. jury excused subject to call. Disposition scheduled for Nov. 13, 1974 at 10:00 a.m. 12:36 p.m. Court adjourned. Newman, J. m-10/23/74.
11/1	SIMMONS, HASKINS, ALSTON: Response to Defendants' Motions Seeking Disclosure of Electronic Surveillance, filed by the Government.
11/4	ADAMS: Magistrate's Warrant of Arrest, with Complaint attached, filed.
11/12	ALSTON: Defendant's Submission at Sentencing and Affidavit of Pamela Samuelson, filed.
11/13	Hearing on defendants' pending motion to prohibit interference with attorney-client relationship and therefore to dismiss indictment. Defendants' Exhibits 10, 11, 12, 13, 14, 15 and 16 to Suppression, filed. 3 defendants' witnesses sworn and testified. Defendants Simmons and Haskins, previously sworn at trial, take stand and testify. 10:00 a.m. Oral argument. Motion denied. Newman, J. m-11/13/74.
11/13	ALSTON: DISPOSITION: Imprisonment for period not to exceed 25 years on Counts 1, 2 and 3 as a general sentence, pursuant to 18 U.S.C. 4208(a)(1), defendant to become eligible for parole after 5 years. Court will not sentence pursuant to youth Corrections Act. Defendant (continued)

DATE 1974	PROCEEDINGS
	informed of right to appeal. Newman, J. m-11/13/74.
11/13	HASKINS: DISPOSITION: Imprisonment for period not to exceed 25 years on Counts 1, 2 and 3 as a general sentence, pursuant to 18 U.S.C. 4208(a)(1), defendant to become eligible for parole after 5 years. Defendant informed of right to appeal. Newman, J. m-11/13/74.
	SIMMONS: DISPOSITION: Imprisonment for period not to exceed 25 years on Counts 1, 2 and 3 as a general sentence, pursuant to 18 U.S.C. 4208(a)(1), defendant to become eligible for parole after 5 years. Defendant informed of right to appeal. Newman, J. m-11/13/74.
11/13	ALSTON: Judgment and Commitment filed and entered. Newman, J. m-11/13/74. Certified copies handed U.S. Marshal at New Haven.
11/13	HASKINS: Judgment and Commitment filed and entered. Newman, J. m-11/13/74. Certified copies handed U.S. Marshal at New Haven.
11/13	SIMMONS: Judgment and Commitment filed and entered. Newman, J. m-11/13/74. Certified copies handed U.S. Marshal at New Haven.
11/13	SIMMONS: Notice of Appeal, filed by defendant. Copies mailed to counsel.
11/15	HASKINS: Notice of Appeal, filed by defendant. Copies mailed to counsel.
11/15	HASKINS: Motion for Appointment of Counsel on Appeal, filed by defendant.
11/15	HASKINS: Motion for Release Pending Appeal, filed by defendant.
11/15	ALSTON: Notice of Appeal, filed by defendant. Copies mailed to counsel.
11/15	Defendants' Supplemental Submission in Support of Motion to Suppress Evidence Derived From Unlawful Electronic Surveillance, and Request For Hearing on Motion, filed by defendants.
11/15	Certified copies of Notices of Appeal and docket entries mailed to U.S. Court of Appeals.
11/18	HASKINS: Defendant's Motion for Appointment of Counsel on Appeal endorsed "Motion denied, without prejudice to seeking appointment by Court of Appeals. See Rule 4(b), Rules of the Court of Appeals for the Second Circuit." Newman, J. m-11/18/74. Copies mailed to counsel.
11/18	HASKINS: Defendant's Motion for Release Pending Appeal endorsed "Motion denied." Newman, J. M-11/18/74. Copies mailed to counsel.
*11/15	HASKINS, ALSTON: CJA Form 23, Financial Affidavits, filed.
11/15	ALSTON, SIMMONS, HASKINS: CJA Form 21 authorizing transcripts to be furnished by Gerald Gale, Court Reporter, to be used for appeal purposes, filed. Newman, J. Copies distributed.
11/19	Marshal's returns showing service filed: Warrants of arrest 3
11/19	Marshal's returns showing service filed: Applications for Writ of Habeas Corpus Ad Prosequendum 3
12/2	Record on Appeal sent U.S. Court of Appeals. Copies of Index and docket entries sent counsel of record.

FILED

10.

SEP 18 3 40 PM '74

U. S. DISTRICT COURT
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA)

vs.)

CRIMINAL NO. N-74-65

HAROLD SIMMONS, JAMES HASKINS,)
MICHAEL ALSTON AND TIMOTHY)
ADAMS)

MOTION TO SUPPRESS EVIDENCE DERIVED
FROM UNLAWFUL ELECTRONIC SURVEILLANCE

The defendants, Harold Simmons, James Haskins and Michael Alston move to suppress any and all evidence derived from unlawful electronic surveillance, including wiretapping and eavesdropping, and allege on information and belief that their conversations have been overheard by means of electronic surveillance as part of a continuing program by federal, state and local authorities to spy on revolutionaries and political activists.

This Motion applies to interceptions by federal, state and local authorities (specifically including but not limited to the New York City Police Department and New York State Police), of communications:

a) to or from any of the defendants;

11.

b) of any communications to, from or in any premises as to which any of the defendants has standing, (including but not limited to the New York Office of the Black Panther Party and premises on ⁵³St. Nicholas Avenue, New York, New York, containing phone number 212-222-1899).

This Motion is based on the Fourth and Fourteenth Amendments to the United States Constitution and Title 18 United States Code §§2510-2520.

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THE DEFENDANTS, HAROLD SIMMONS,
JAMES HASKINS AND MICHAEL ALSTON

BY

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THOMAS D. CLIFFORD
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Their Attorneys

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

:

v.

:

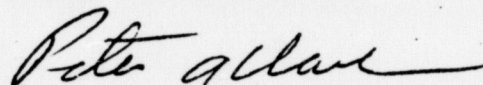
CRIMINAL NO. N-74-65

HAROLD SIMMONS, JAMES HASKINS,
and MICHAEL ALSTON

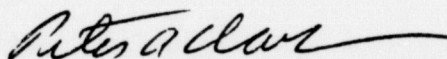
:

RESPONSE TO DEFENDANTS' MOTIONS SEEKING
DISCLOSURE OF ELECTRONIC SURVEILLANCE

The Government has researched its appropriate indices and has determined that no electronic surveillance was employed in this matter. An affidavit of the undersigned, with sub-exhibits, is attached hereto as exhibit A to substantiate this response.

PETER C. DORSEY
UNITED STATES ATTORNEYBY: PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY

This is to certify that a copy of the within and foregoing Response has been mailed to all counsel of record, this 1st day of November, 1974.

BY: PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :

v. :

CRIMINAL NO. N-74-65

HAROLD SIMMONS, JAMES HASKINS, :
and MICHAEL ALSTON

A F F I D A V I T

PETER A. CLARK, being first duly sworn, states:

1. That I am a duly appointed Assistant United States Attorney for the District of Connecticut.

2. That I caused a written inquiry to be made by the Criminal Division of the U.S. Department of Justice with appropriate officials responsible for keeping electronic surveillance records for each of the Federal Agencies listed herein inquiring whether there has been at anytime any electronic surveillance of any conversations of Harold Simmons, James Haskins, or Michael Alston, the defendants herein, and of the premises in which they have claimed any interest.

A copy of the letter sent to the agencies is attached to this affidavit as "Appendix A".

3. The Federal officials to whom these inquiries were directed
are:

- (a) Director
Federal Bureau of Investigation
Washington, D.C.
- (b) Assistant Director
Investigations
United States Secret Service
Washington, D.C.
- (c) Director
Intelligence Division
Internal Revenue Service
Washington, D.C.
- (d) Assistant Director
Criminal Enforcement
Bureau of Alcohol, Tobacco and
Firearms
Washington, D.C.
- (e) Assistant Commissioner
Office of Investigations
United States Bureau of Customs
Washington, D.C.

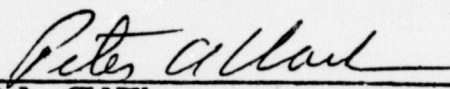
(f) Administrator
Drug Enforcement Administration
Washington, D.C.

15.

(g) Chief Postal Inspector
United States Postal Service
Washington, D.C.

These Agencies were selected as appropriate for inquiry because at the time of this request they were the only Agencies that had requested authority to conduct and had conducted electronic surveillance pursuant to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351. I am advised that all national security electronic surveillance authorized by the Attorney General has been conducted solely by and all records of such surveillance are maintained by the Federal Bureau of Investigation.

4. That written responses to the inquiry have been received from each of the Agencies listed above and each agency officially advises that there has been no electronic surveillance of Harold Simmons, James Haskins or Michael Alston at any time, and that none of the premises in which they claim any interest have been the subject of any electronic surveillance at any time. The original responses of all seven agencies, as well as supplemental information supplied by the U.S. Department of Justice are attached to this affidavit as "Appendix B".


PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY
DISTRICT OF CONNECTICUT

Subscribed and sworn to before me
this ____ day of November, 1974.

PETER MEAR
Commissioner of the Superior Court

APPENDIX A

9/25 74

September 26, 1974

CWB:BA:TJW:jkm

Mr. John J. Olszewski
Director
Intelligence Division
Internal Revenue Service
Washington, D.C.

Re: United States v. Harold Simmons, James
Haskins, Michael Alston, and Timothy
Adams, District of Connecticut
Electronic Surveillance Information Request

Dear Mr. Olszewski:

Harold Simmons, James Haskins and Michael Alston are presently on trial in Connecticut on charges of bank robbery under Title 18, United States Code, Section 2113. Timothy Adams, also charged with the bank robbery, is presently a fugitive. The defendants have filed a Motion for the Disclosure of Electronic Surveillance and we have been advised that the District Court will grant this Motion. In order to assist you in responding to this inquiry, there is attached herewith an Identification Data sheet setting forth the information we presently possess concerning the defendants.

It is necessary that we be supplied with all electronic surveillance information available to you

Records

Petersen

Buckley

Gen. Crimes Section

Wilson

Spec. Lit. Unit

Mrs. Boyd

Hold

- 2 -

pertaining to these individuals. Therefore, it is requested that we be advised if any of these individuals have been overheard on any electronic surveillance or if any premises known to be owned, leased, or licensed by any of them have ever been monitored during the course of any electronic surveillance conducted by your Agency. This information should include any surveillance where one of the parties may have consented thereto, as well as any surveillance conducted pursuant to Title III of Public Law 90-351.

Your response to this inquiry is requested as soon as possible in order that we may have sufficient time to prepare an appropriate response to the allegations of electronic surveillance. In order to expedite this matter, please address your response to Carl Belcher, Chief, General Crimes Section, Criminal Division, Attention Timothy J. Wilson.

Sincerely,

CARL W. BELCHER
Chief, General Crimes Section
Criminal Division

By:

TIMOTHY J. WILSON
Attorney

IDENTIFYING DATA

19.

NAME : Harold Simmons
RACE : Black
DATE OF BIRTH: December 17, 1944
ADDRESS : 545 W. 156th Street
New York, New York

NAME : Michael Austin
RACE : Black
DATE OF BIRTH: February 16, 1954
ADDRESS : 1319 S. 2nd
Plainfield, New Jersey

NAME : James Haskins
RACE : Black
DATE OF BIRTH: December 21, 1948
ADDRESS : Both Haskins and his attorney have
refused to provide this information.

NAME : Timothy Adams
RACE : Black
STATUS : Fugitive

The following addresses apply to all the individuals
listed above:

- 1) 2026 7th Street
New York, New York
- 2) 53 St. Nicholas
New York, New York

Phone number - 212-222-1819

APPEND 3

UNITED STATES GOVERNMENT

Memorandum

20.

TO : Assistant Attorney General
Criminal Division
Attention: Mr. Timothy J. White
General Crimes Section

FROM : *CRK* Director, FBI

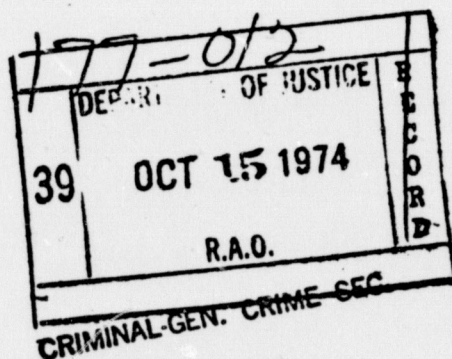
SUBJECT: HAROLD SIMMONS
JAMES HASKINS
MICHAEL ALSTON
TIMOTHY ADAMS
ELECTRONIC SURVEILLANCE

OCT 11 3 55 PM '74
DEPT. OF JUSTICE
RECEIVED
OCT 15 1974
CRIMINAL DIVISION

Reference is made to your memorandum dated September 30, 1974, HEP:CWB:BA:TJW:jmm, 177-012, requesting electronic surveillance information on captioned individuals.

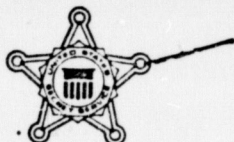
On the basis of identifying data provided by the Department concerning captioned individuals, a review has been made of appropriate records. They were not the targets of an electronic surveillance nor were any of their conversations monitored by an electronic device of the FBI. Further, this Bureau did not maintain any electronic surveillance on premises which were known to have been owned, leased or licensed by the above individuals.

It is suggested that other Federal investigative agencies be contacted to determine if they had coverage of the subjects.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



OFFICE OF THE DIRECTOR

DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE

LOT 7 12 01 1974
WASHINGTON, D.C. 20223

October 2, 1974

OCT 5 12 27 PM '74
DEPT. OF JUSTICE
MAIL ROOM
CWB:BA:TJW:jmm
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21.

Mr. Carl W. Belcher, Chief
General Crimes Section
Criminal Division
U.S. Department of Justice
Washington, D.C.

Attn: Mr. Timothy J. Wilson
Attorney

Dear Mr. Belcher:

This is in reply to your letter dated September 26, 1974, regarding Harold Simmons, Michael Austin, James Haskins and Timothy Adams.

The United States Secret Service has no prior record or knowledge of any electronic surveillance relative to the above named individuals; nor have any premises or telephones known to be owned, leased, or licensed by them, been the subject of electronic surveillance of any type, lawful or unlawful.

Sincerely,

Burrill A. Peterson
Assistant Director
Investigations

RECEIVED

OCT 8 1974

CRIMINAL DIVISION

177-012	
DEPT. OF JUSTICE	RECORD
39	OCT 7 1974
R.A.O.	
CRIMINAL-GEN. CRIME SEC.	



OCT 11 2 10 PM '74

DEPT. OF JUSTICE

RECEIVED

OCT 11 1974

SPECIAL ATTENTION SECTION
Internal Security Division

Internal Revenue Service
Washington, DC 20224

Date:

OCT 11 1974

In reply refer to:

CP:I:T

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D.C. 20530

Attn: Timothy J. Wilson
Attorney

Dear Mr. Belcher:

In Re:	SIMMONS, Harold	AUSTIN, Michael
	545 W. 156th St.	1319 S. 2nd
	New York, New York	Plainfield, N.J.
	HASKINS, James	ADAMS, Timothy

On September 26, 1974, you requested that the Department of Justice be advised whether the Internal Revenue Service had conducted any electronic surveillance (lawful or unlawful) of the subject named individual(s) or his (their) premises. You further requested that this reply include any surveillances where one of the parties may have consented to the surveillance.

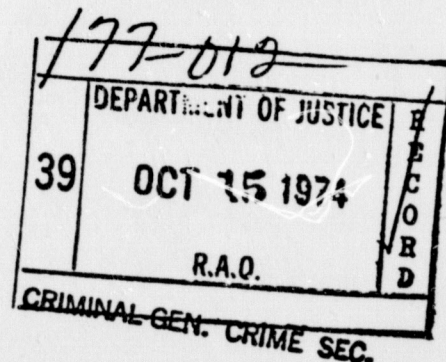
The electronic surveillance files of the Internal Revenue Service are indexed under the names of individuals who were the subjects of electronic surveillance, attempted electronic surveillance, or on whom leads were obtained as a result of electronic surveillance. Only in those instances where a surveillance was attempted or conducted at premises where the identity of the individuals surveilled could not be ascertained are our files indexed by address or other geographical location.

Our files disclose that none of the individuals named above were the subject of any electronic surveillance conducted by the Intelligence Division. No conversations in which any of the above participated were intercepted, overheard, or recorded through electronic surveillance conducted by the Intelligence Division.

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OCT 15 1974

CRIMINAL DIVISION



-2-

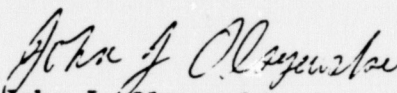
Mr. Carl W. Belcher

We have also searched our files for any electronic surveillance conducted at the addresses set forth in your request. The results of this search were negative.

The Director, Internal Security Division, Inspection Service, advises that the Inspection Service has conducted no surveillance on the individuals named in your request and they have no indication of any surveillance conducted at the addresses set forth in your inquiry.

If any additional information concerning this matter is required, please contact this office.

Sincerely yours,



John J. Olszewski
Director, Intelligence Division



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

24.

Address Reply to the
Division Indicated
and Refer to Initials and Number

TJW:dlb

October 25, 1974

Mr. Peter Clark
Assistant United States Attorney
New Haven, Connecticut

Dear Mr. Clark:

Per your request, I recontacted both the Internal Revenue Service and the Secret Service regarding any electronic surveillance of Michael Alston.

Ms. Cindy Johnston of the Intelligence Division of the Internal Revenue Service stated on October 25, 1974, that the Internal Revenue Service had no records of any electronic surveillance of Michael Alston.

Ms. Kathy Kouchis, Intelligence Research Specialist, United States Secret Service, stated on October 25, 1974, that the United States Secret Service had no records of any electronic surveillance of Michael Alston.

Sincerely,

Timothy J. Wilson
TIMOTHY J. WILSON,
Attorney

Special Litigation Unit
General Crimes Section
Criminal Division



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

OCT 3 10 40 AM '74
DEPT. OF JUSTICE
MAIL ROOM
GROOM

OCT 2 1974

REFER TO
C:S:NAH
Your letter: 9-26-74

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D.C. 20530

Attention: Mr. Timothy J. Wilson

Dear Mr. Belcher:

This is in response to your inquiry concerning possible electronic surveillance having been conducted by the Bureau of Alcohol, Tobacco and Firearms on the following named persons:

Harold Simmons
Michael Alston

James Haskins
Timothy Adams

The files maintained by this Bureau reflect the names and addresses of all persons who have been subjects of electronic surveillance by this Bureau.

Please be advised that we have never conducted electronic surveillance on the above named persons nor have we conducted electronic surveillance on any premises known to be owned, leased, or licensed by them.

Sincerely yours,

John F. Corbin, Jr.
John F. Corbin, Jr.
Assistant Director (Criminal Enforcement)

DISC
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DEPT. OF JUSTICE

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OCT 4 1974
CRIMINAL DIVISION

177-012	
DEPAR: .. OF JUSTICE	RECORD
29	OCT 3 1974
R.A. ADAMS	



DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON



26.

REFER TO
ENF 3-09 I:G:SI
Subject: Electronic
Surveillance
REF: CMB:BA:TJW:
jmm

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D. C. 20530

RECEIVED
OCT 21 1974
CRIMINAL DIVISION

Attention: Timothy J. Wilson
Attorney

Re: United States v. Harold Simmons, James Haskins,
Michael Alston, and Timothy Adams
Electronic Surveillance

Dear Mr. Belcher:

In response to your letter dated September 26, 1974,
regarding electronic surveillance on the referenced
individuals and premises in which they claim an interest,
inquiry was made of our appropriate offices and check was
made of our files.

Our records do not reflect that the referenced individuals
or premises in which they claim an interest have been the
subject of any type of electronic surveillance.

Sincerely yours,

George P. Peterson
Assistant Commissioner
(Investigations)

177-012	
DEPARTMENT OF JUSTICE	
39	OCT 18 1974
R.A.U.	
RECORD	

CRIMINAL-GEN. CRIME SEC.

UNITED STATES GOVERNMENT

Memorandum

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27.

OCT 11 1974

TO : Mr. Carl Belcher, Chief
General Crimes Section
Criminal Division

DATE: October 10, 1974

Reference: HEP:CWB:BA:TJW:jmm

FROM : William J. Durkin
Assistant Administrator for Enforcement
Drug Enforcement Administration

SUBJECT: Electronic Surveillance - United States v. Harold Simmons,
James Haskins, Michael Alston, and Timothy Adams, District
of Connecticut

In reply to your memorandum of September 30, 1974 we have checked the files of this Administration and of our New York, New York Regional Office regarding the above subjects. The above have not been identified as being participants in conversations overheard in any electronic surveillance by this Agency, nor was any electronic surveillance ever conducted on any premises of which they were the known owners, lessees, or licensees.

RECEIVED

OCT 11 1974

RECEIVED
L & S P CRM. DIV.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



OCT 8 4 10 PM '74

CHIEF POSTAL INSPECTOR
Washington, DC 20260

OCT 8 1 05 PM '74

RECEIVED

October 4, 1974

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D. C. 20530

Your reference: Electronic Surveillance
United States v. Harold Simmons,
James Haskins, Michael Alston, and
Timothy Adams, District of Connecticut
CWB:BA:TJW:jmm

Dear Mr. Belcher:

Your letter dated September 26, 1974, copy enclosed, requested information concerning possible use of electronic surveillance by the Postal Inspection Service.

A thorough search of our records resulted in negative responses to all inquiries made in your letter.

Sincerely,

William J. Cotter
Chief Inspector

Enclosure ✓

RECEIVED

OCT 9 1974

CRIMINAL DIVISION

177-012	
DEPARTMENT OF JUSTICE	
39	OCT 8 1974
R.A.O.	
CRIMINAL-GEN. CRIME SEC.	

September 26, 1974

CWB:BA:TJW:jmm

Mr. William J. Cotter
Assistant Postmaster General
Postal Inspection Service
United States Postal Service
Washington, D.C.

Re: United States v. Harold Simmons, James
Haskins, Michael Alston, and Timothy
Adams, District of Connecticut;
Electronic Surveillance Information Request

Dear Mr. Cotter:

Harold Simmons, James Haskins and Michael Alston are presently on trial in Connecticut on charges of bank robbery under Title 18, United States Code, Section 2113. Timothy Adams, also charged with the bank robbery, is presently a fugitive. The defendants have filed a Motion for the Disclosure of Electronic Surveillance and we have been advised that the District Court will grant this Motion. In order to assist you in responding to this inquiry, there is attached herewith an Identification Data sheet setting forth the information we presently possess concerning the defendants.

It is necessary that we be supplied with all electronic surveillance information available to you

- 2 -

pertaining to these individuals. Therefore, it is requested that we be advised if any of these individuals have been overheard on any electronic surveillance or if any premises known to be owned, leased, or licensed by any of them have ever been monitored during the course of any electronic surveillance conducted by your Agency. This information should include any surveillance where one of the parties may have consented thereto, as well as any surveillance conducted pursuant to Title III of Public Law 90-351.

Your response to this inquiry is requested as soon as possible in order that we may have sufficient time to prepare an appropriate response to the allegations of electronic surveillance. In order to expedite this matter, please address your response to Carl Belcher, Chief, General Crimes Section, Criminal Division, Attention Timothy J. Wilson.

Sincerely,

CARL W. BEECHER
Chief, General Crimes Section
Criminal Division

By:

TIMOTHY J. WILSON
Attorney

IDENTIFYING DATA

NAME : Harold Simmons
RACE : Black
DATE OF BIRTH: December 17, 1944
ADDRESS : 545 W. 156th Street
New York, New York

NAME : Michael Austin
RACE : Black
DATE OF BIRTH: February 16, 1954
ADDRESS : 1319 S. 2nd
Plainfield, New Jersey

NAME : James Haskins
RACE : Black
DATE OF BIRTH: December 21, 1948
ADDRESS : Both Haskins and his attorney have
refused to provide this information.

NAME : Timothy Adams
RACE : Black
STATUS : Fugitive

The following addresses apply to all the individuals listed above:

- 1) 2026 7th Street
New York, New York
- 2) 53 St. Nicholas
New York, New York

Phone number - 212-222-1819

October 4, 1974

Mr. Carl W. Belcher
Chief, General Crimes Section
Criminal Division
Department of Justice
Washington, D. C. 20530

Your reference: Electronic Surveillance
United States v. Harold Simmons,
James Haskins, Michael Alston, and
Timothy Adams, District of Connecticut
CWB:BA:TJW:jmm

Dear Mr. Belcher:

Your letter dated September 26, 1974, copy enclosed, requested information concerning possible use of electronic surveillance by the Postal Inspection Service.

A thorough search of our records resulted in negative responses to all inquiries made in your letter.

Sincerely,

(Signed) W. J. Cotter

William J. Cotter
Chief Inspector

Enclosure



November 13, 1974

13 MR. ROSEN: There is one brief matter. This relates
14 to the issue of wire tapping on which the government filed a
15 response, which I received a copy of. That response does not
16 reflect any inquiry, if inquiry was made, to the New York City
17 Police Department, which is something of a concern to us, because,
18 in part, there has been evidence reflecting some involvement of
19 the New York City Police Department in this case. Therefore, I
20 would ask the Court to reserve decision on our motion concerning
21 wire tapping pending some kind of report from the government on
22 inquiries made of the New York City Police Department.

23 THE COURT: The only thing I recall that had anything
24 representing the New York City Police Department, is that they
25 supplied some photographs. There is no indication that they are

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750 MAIN STREET
HARTFORD, CONNECTICUT

141 CHURCH STREET
NEW HAVEN, CONNECTICUT

1 part of the prosecution of this case. There was a good bit of
2 evidence of cooperation between the Connecticut authorities and
3 the federal authorities, but I'm not aware of any indication that
4 New York is in any sense part of this prosecution other than as
5 a source of photographs.

6 MR. ROSEN: There was some reference to their coopera-
7 tion and that I remember their providing photographs as one item
8 of cooperation in the prosecution and in the investigation of the
9 case, and it seems to me under Alderman against the United
10 States, that even that minimal showing may not be necessary,
11 although I think it perhaps is necessary to make some showing
12 because they -- the prosecution cannot be expected to search the
13 records of every law enforcement agency in the world, but
14 where, as here, the New York City Police Department plainly was
15 in contact with investigating authorities, and plainly played
16 some role, it seems to me there is enough of a threshold
17 pass to make inquiry relevant, and under Alderman, the extent
18 of the inquiry ought to be left to defense counsel.

19 MR. WILLIAMS: Some additional facts, as well, your
20 Honor, which support that. I think that the government will not
21 disagree, because we, in fact, have had some informal discussions
22 among counsel for the government and counsel for the defendants
23 with regard to the role of the New York City Police Department,
24 and there is no question that officers from the New York City
25 Police Department participated in the City of New Haven in the

1 actual investigation with regard to this case and, in fact,
2 officers from the New York City Police Department came to New
3 Haven for that specific purpose.

4 My rather vague recollection is, indeed, there is
5 reference to that in some of the press clippings which were made
6 exhibits in this case, and that there is further reference to it
7 in some of the Jencks material that was provided to us, but, in
8 any event, I am sure that the government will not contest that.
9 I am sure the government will not contest that we have had
10 discussions in which both Mr. Rosen and I have stated to
11 counsel for the government well in advance of the supplying of
12 this, these written affidavits, the government has given the
13 Court, that we believe that the New York City Police Department
14 was the most probable source of any illegal wire tapping that was
15 going on.

16 They acknowledge that was our position, and obviously
17 without taking their own position on that, acknowledge that we
18 were not completely without factual support for making that
19 claim, and accordingly, it seems to me, there was more than
20 sufficient basis for the government to make that inquiry. . I
21 think that the government, quite frankly, prefers not to make
22 that inquiry for fear of what they may discover.

23 THE COURT: What is the government's view?

24 MR. CLARK: I am somewhat astounded to hear counsel in
25 this courtroom to say that the government agreed there was a

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141 CHURCH STREET
NEW HAVEN, CONNECTICUT

1 factual basis for their claim that the New York City engaged
2 in wire tapping.

3 MR. WILLIAMS: I don't mean they took the position
4 they had. They acknowledge, I think, that the New York City
5 Police Department has been deeply involved in the investigation
6 of the organization of which our clients are members, and that
7 that is an agency which is certainly a more likely one to contact
8 than the Internal Revenue Service, which apparently they did
9 contact.

10 MR. CLARK: I have no personal knowledge of the extent
11 of the New York City Police Department investigation of the
12 subjects or in the organization to which they may belong. I
13 further think that with respect to inquiry of the New York City
14 Police Department, I don't think that there is even any basis
15 by which we can compel reply from the New York City Police
16 Department. IF we were to send them a letter and ask them to
17 reply to this, I think they could tell us that they won't respond.
18 So I just don't -- this does catch me a bit by surprise, and I
19 don't have case authority, but --

20 THE COURT: Was the New York Police Department the
21 source of any evidence in this case, other than the photographs
22 that were used in the pretrial identification process?

23 MR. CLARK: Not to my knowledge, your Honor. There
24 may have been -- not to my knowledge. Especially, there is no
25 evidence that the government presented that came by way of New

1 York City Police Department. I know that for a fact.

2 MR. ROSEN: That, I think, is not the -- it's not the
3 time or the place to make that determination and form in which
4 Mr. Clark is necessarily limited in responding, being as he is
5 the presenter of the evidence, but not the gatherer of the evidence.
6 That response I don't think can dispose of our claim, and I
7 repeat, we are not looking here for wholesale inquiry into any
8 large number of agencies or asking the government to discover
9 agencies and make investigation. We are concerned with one
10 agency, which whether or not in the government's view, certainly
11 in our view, is probably the most likely to be involved in
12 illegal wire tapping of our clients.

13 MR. WILLIAMS: I join fully with what Mr. Rosen has
14 said, but I want to say that with respect to the question of
15 whether evidence concerning this case has been gathered by
16 New York City Police Department, that I will represent to this
17 Court as an officer of this Court, that it has been specifically
18 told to me in a personal interview by a uniformed member of the
19 New Haven Police Department that prior to the bank robbery
20 which is the subject of this prosecution within a relatively short
21 time not to exceed about a month, that a teletype was received
22 in the New Haven Police Department from the Connecticut State
23 Police Department, which stated that they had received information
24 from the New York City Police Department that members of the Black
25 Liberation Army were planning to conduct a bank robbery of some

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1 kind in some place in southern Connecticut, and there would be
2 a danger of violence involved in connection therewith, and I
3 might say that has further been confirmed to me indirectly by
4 an individual involved with the news media, who informed me that
5 he had received the same information from an anonymous source
6 in the Connecticut State Police Department, and I, therefore,
7 state to your Honor that this is not at all a blind situation,
8 that we are specifically limiting to the New York City Police
9 Department, that there is every reason to believe that the New
10 York City Police Department is second only to the Federal
11 Bureau of Investigation, the primary agency involved in the
12 investigation of our clients prior to and subsequent to this
13 particular event, and that, indeed, the New York City Police
14 Department is considered the principal source of law
15 enforcement information in this country on the subject of
16 Black Liberation Army, for rather obvious reasons.

17 THE COURT: Anything else on this point?

18 The only thing that's a matter of record is the
19 New York City Police Department was a source of photographs.
20 Mr. Williams alleges that the New York City Police Department
21 alerted the Connecticut authorities to the possibility that the
22 crime would be committed, somewhere in Connecticut by someone.
23 I don't see that that ties the New York City Police Department
24 as an investigative agency in this crime.

25 The crime occurred in Connecticut, it was investigated

1 by Connecticut authorities and federal authorities. The
2 appropriate wire tapping inquiries have been made of Connecticut
3 authorities and federal authorities, and I am going to leave the
4 matter this way, I am not going to require the government to
5 do anything further. If the government makes its own determination
6 that it thinks the record would be better protected by some
7 further response from the New York authorities, they are free
8 to seek such response and supplement the record in that regard,
9 but I am not going to require it.

10 MR. WILLIAMS: Your Honor may be operating under a
11 certain misapprehension. In Mr. Clark's affidavit and attach-
12 ment, there is no information that any inquiry has been made of
13 any Connecticut law enforcement agency regarding this. They
14 inquired only of federal agencies.

15 THE COURT: Is that in issue about Connecticut? I
16 thought your claim was directed to New York?

17 MR. WILLIAMS: Our claim was directed to New York, but
18 your Honor was operating under that misapprehension, and it
19 should be brought to your attention.

20 THE COURT: I sort of got the impression here that if
21 no complaint was made about something, it was because something
22 had been done.

23 In any event, this motion is directed to New York
24 authorities, and I have indicated my views of the relationship
25 of New York to the prosecution of this offense, namely: there is

1 absence of that relationship, but if the government wants to
2 supplement the record, they are free to do so.
3

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

41.

UNITED STATES OF AMERICA

VS.

HAROLD SIMMONS, JAMES HASKINS,
MICHAEL ALSTON AND TIMOTHY
ADAMS

CRIM. NO. N-74-65

DEFENDANTS' SUPPLEMENTAL SUBMISSION IN SUPPORT
OF MOTION TO SUPPRESS EVIDENCE DERIVED FROM UNLAWFUL
ELECTRONIC SURVEILLANCE, AND REQUEST FOR HEARING
ON MOTION

1) The Defendants by their undersigned Counsel moved on September 19, 1974, to suppress all evidence derived from unlawful electronic surveillance and alleged at that time "on information and belief that their conversations have been overheard by means of electronic surveillance as part of a continuing program of federal, state, and local authorities to spy on revolutionaries and political activists."

2) Defendants' Motion, while referring to "interceptions by federal, state, and local authorities" referred specifically to two likely sources of unlawful electronic surveillance: the New York City Police Department and the New York State Police.

3) The government has made no inquiry of either the New York City Police Department or the New York State Police. The court has, however, given the government leave to supplement the record on this Motion should it desire.

4) The reason given by the court for refusing to order governmental inquiry of the New York City Police Department was that in the court's view the New York City Police Department was not "part of the prosecution" of this case.

5) Defendants represented in open court on November 13, 1974, that they believed the New York City Police Department had played a more active role in the investigation of this case than that indicated by the court.

6) Defendants submit herewith excerpts from the investigative file of the government disclosing certain activities of the New York City Police Department.

7) These excerpts show that the New York City Police Department played an active role in the investigation of this case, and that its members communicated concerning this case with both New Haven and federal authorities investigating the case.

8) In short, like the New Haven Police Department and the Federal Bureau of Investigation, ^{the} New York City Police Department participated in the investigation of this case.


Defendants therefore renew their request that the government be required to search the records of the New York City Police Department for evidence of electronic surveillance of the Defendants. In the event the New York City Police Department does not willingly cooperate with the government, Defendants request an opportunity for a hearing on their Motion,

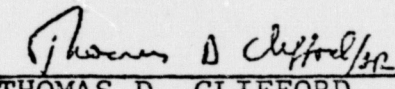
at which officials from that Department may be summoned to testify.

THE DEFENDANTS, HAROLD
SIMMONS, JAMES HASKINS AND
MICHAEL ALSTON

BY 

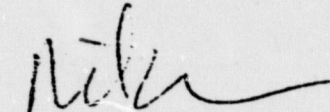
DAVID N. ROSEN
265 Church Street
New Haven, Connecticut 06510


JOHN R. WILLIAMS
265 Church Street
New Haven, Connecticut 06510


THOMAS D. CLIFFORD
207 Orange Street
New Haven, Connecticut 06510

Their Attorneys

This is to certify that a copy of the foregoing motion was mailed, postage prepaid, to Peter A. Clark, Assistant United States Attorney, 141 Church Street, New Haven, Connecticut, on this 14 day of November, 1974.


DAVID N. ROSEN

44

1. NAME

R. NHRD

2. GRADE

LAURENCE K. M-B- 6-27-48

865-6790

703

3. ASSIGNMENT

G. NHRD

On 6-27-48, at approximately 1310 hours, while this detective and Det. G. Mazzacane were in the Horton St. and Derby Ave. area and monitoring channel one police radios, we did hear a broadcast by the dispatcher on both channels in the area from the New Haven Savings Bank, located at 36 Fountain Street; Mr. [redacted] in the area either plain clothes or uniforms to respond. He assigned a sector of the city to also respond to checkout the silent alarm. I immediately contacted Division Base that myself and Det. Mazzacane would respond to that call. When the officer who was operating started heading towards the Westville Sector of the city approximately one minute had transpired from the original call, when I received a transmission from an officer transmitting that he had been hit real bad and to get an ambulance to that location. The officer later identified as Officer William Bradley repeated his message also that the suspects had entered a yellow cab and were leaving the scene.

Immediately after officer Bradley ceased his transmission another transmission was received by another officer, later identified as James Baker of the Housing Authority, that he was in pursuit of the yellow cab occupied by the suspects and he broadcasted the direction he was giving pursuit. As each intersecting street was reached, when we arrived there Det. Mazzacane and myself headed back in the direction of the call. We were subsequently advised by radio that the suspects had abandoned the yellow cab in the immediate area in the back yards. Det. Mazzacane and myself arrived at the intersection of Chapel and more specifically at 136 Sherman Ave. which is the north side of the building across from St. Raphael Hospital Emergency Room and it was at that time that a suspect was in that building and the entire building was surrounded by numerous officers at that location.

In the perimeter of the parking lot of 136 Sherman Ave. is a stockade fence which was scaled by the suspects known to be in the confines of the office building.

While observing all exits from 136 Sherman Ave. several shots rang out in the area. The suspects fled from 136 Sherman Ave. on the southside of the parking lot between the

COPY A

George St.

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zaccane were on another
and channel three on the
indicating that a silent alarm
New Haven and requested that
a vehicle covering that
only notified the Investigator
location and Detective G.
the City to answer the call.
heard on channel three and
to the scene as he had heard
transmission several times
one of the bank.

on was related to the dispa-
rity PD that he had taken
located his position and
called out as the suspects
of those intersections and
allow cab on George St. and
lived at the intersection of
multi-story of professional
made known by Officers already
surrounded and kept under

approximately 6ft. in height
building at 136 Sherman Ave.

back of the stockade fence
stockade for and George

then left my home and drove to the area of Sherman and George where I observed the suspect had fled. I was advised at this time by policemen on the scene that a suspect was hiding at 136 Sherman Avenue and that the Special Weapons Assault Team (SWAT) was at this time.

I then took up a position on the southside of 136 Sherman Ave. and a short time later the suspect had surrendered to police, and was presently under arrest. At this time Chief Inspector Nicholas Pastore who handed me a .38 caliber revolver, type 1911, with black electrical tape around the butt. This weapon was fully loaded. Inspector Pastore advised that this weapon was located in the area of the bank at 36 Fountain Street by Mr. Bean and turned over to him.

At this time that a black male subject, later identified as Harold Simmons, was hiding at 136 Sherman Avenue, and turned over to Detective Leonard Pastore, myself and myself. All three of us then transported Simmons to the Investigative Services Division where he was advised of his Rights and stated, he would only make a statement to the District Attorney's Office was notified and Attorneys Mort Lewis and Thomas Corradino came to the Investigative Services Division where they interviewed Simmons in private. I then turned the revolver over to Detective Roy Olson of the Identification Service. Detective Olson inspected the revolver he found that both serial numbers were obliterated.

On 5-7-74, while at the Investigative Services Division, I spoke with Detective Matthew Nichols, New York City Police Department, Major Case Squad. He stated, that while at the New York City Correctional Center earlier this date, a piece of white paper with writing on it was given to him by Warden Frank Moore. Detective Nichols then turned this paper over to me. In this paper I saw the signature, "Michael Alston," writing indicated such phrases as "On the Run of the War of Liberation" "On the Run", "Michael Alston is a non-entitled person", "Rotunda", "Freedom, Freedom" "Arcade." And numerous other figures including a drawing of a person on the top of a four story building in a prone position looking down at the ground. A piece of white paper with some type of red coloring on same was marked with the date "5-7-74." I then placed this white paper into evidence.

It should be further noted that Detective Matthew Nichols stated, he was told that a piece of white paper was taken from the arrestee Michael Alston while he was in the New York City Correctional Center. See Detective Odell Cohens' follow up investigation to establish the continuity of this particular piece of evidence.

On 5-12-74, I spoke to Sergeant John Maher about the report he turned in on the day of the robbery by Mr. Bean, at 136 Sherman Avenue on 5-3-74, the day of the robbery. In his report that Mr. Bean told him the bullet was picked up in the area of the New York Savings Bank, 36 Fountain Street. I advised Sergeant Maher that an

COPY A

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and police had the area
it had fled into the
was searching the

later was advised that
time I was approached
Colt Police Special with
Pastore advised me
Mr. Bean of the Central

ons, was brought out of
re, Detective George
ative Services Division.
a Lawyer. The Public
ame to the Investigative
e weapon, given to me
e Unit. When Detective
d.

Matthew Nichols of
he was at the Phalley
ing on same was turned
ver to me. Upon examining
es as; "Sniper Revolution."
ty", "Help is Needed",
cluding a drawing of a
a person on the ground.
th my initials "PPC" and

by Warden Moore that this
ncarcerated in the Phalley
on as I assigned him to

the spent bullet turned
ry. Sergeant Maher
parking lot of the
investigation conducted

NH 91-6443

GSP:eam

1

On May 7, 1974, a neighborhood investigation was conducted in the vicinity of the downtown New Haven, Connecticut, Holiday Inn, 30 Whalley Avenue, New Haven, Connecticut by Special Agent GEORGE S. PHILLIPS and Detective THOMAS LYONS of the New York City Police Department. The following persons were interviewed regarding this matter but none could furnish any information pertinent to this investigation:

- 1) RICHARD DAVIS, Attendant
Pitt's Stop Shell
1 Whalley Avenue,
New Haven, Connecticut
- 2) ROBERT PITTS, owner
Pitt's Stop Shell
1 Whalley Avenue,
New Haven, Connecticut
- 3) GARY GAGLIARDI
Gag Jr's Package Store
57 Whalley Avenue,
New Haven, Connecticut
- 4) JACK TOTTEHAM, owner
Jack's Super Gulf Service
60 Whalley Avenue,
New Haven, Connecticut

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NY 91-6443

GSP:lca

-1-

LAURAL KOWALSKI, Barmaid, Downtown Holiday Inn, 30 Whalley Avenue, New Haven, Connecticut, was interviewed on May 7, 1974 by Special Agent GEORGE S. PHILLIPS of the Federal Bureau of Investigation, New Haven Police Department Detective NICHOLAS TENIERA, and New York City Police Department Detective THOMAS LYONS. KOWALSKI states she was employed at the Holiday Inn during the period May 1 through May 7, 1974 on a daily basis.

KOWALSKI was shown photographs of various black males and black females, including photographs of HAROLD SIMMONS, JAMES H. SIMMONS, MICHAEL ALSTON, COLLETTE ALI, and FRANKIE ADAMS.

KOWALSKI was unable to identify any of these individuals.

JAN 21 4 14 PM '75
U.S. DISTRICT COURT
NEW HAVEN, CONN. 48.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :
v. : CRIMINAL NO. N-74-65
HAROLD SIMMONS, JAMES HASKINS, :
MICHAEL ALSTON and TIMOTHY ADAMS :

SUPPLEMENTAL RESPONSE TO MOTION FOR
DISCLOSURE OF ELECTRONIC SURVEILLANCE

Pursuant to defendants' motions regarding electronic surveillance, the United States Attorney's Office made further inquiry of the New Haven, Connecticut Police Department, the Connecticut State Police, the New York City Police Department, and the New York State Police, in an effort to determine if electronic surveillance had been employed against any named defendant in the above-captioned matter. All agencies have responded in the negative. The original responses are filed herewith as Court exhibits, and copies are attached to defendants' copies of this response.

PETER C. DORSEY
UNITED STATES ATTORNEY

BY: PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY

This is to certify that a copy of the within and foregoing Supplemental Response has been mailed to all counsel of record, this 21st day of January, 1975.

BY: PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY



POLICE DEPARTMENT
NEW YORK, N. Y. 10038

I.D. #1818-74

P. D. 158-151

49.

December 16, 1974

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U. S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

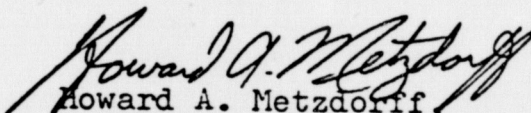
Peter A. Clark, Esq.
Assistant United States Attorney
District of Connecticut
141 Church Street
P.O. Box 1824
New Haven, Connecticut 06508

RE: United States v. Harold Simmons,
James Haskins, Michael Alston and
Timothy Adams
Criminal No. N-74-65

Dear Mr. Clark:

In response to your letter of December 3, 1974, addressed to Commissioner Michael J. Codd, please be advised that a thorough search of the Intelligence Division's files and records fails to disclose any electronic surveillance having been conducted of the above defendants, at any time.

Very truly yours,


Howard A. Metzdorff,
Deputy Chief,
Commanding Officer,
Intelligence Division

HAM/MM/cv

325 Hudson Street
New York, N.Y. 10013

MAS J. MESKILL
GOVERNOR



CLEVELAND B. FUESSENICH
COMMISSIONER

STATE OF CONNECTICUT
DEPARTMENT OF STATE POLICE
100 WASHINGTON STREET
HARTFORD, CONNECTICUT 06101

December 6, 1974

RECEIVED

DEC - 9 1974

U. S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

Honorable Peter C. Dorsey
United States Attorney
141 Church Street
P. O. Box 1824
New Haven, Connecticut 06508

Dear Mr. Dorsey:

RE: United States V. Simmons, Haskins, Alston and Adams.

The records of this department reflect that the above-named defendants have never been the subject of any electronic surveillance conducted by this department.

I know of no such surveillance conducted by any other law enforcement agency within the State Of Connecticut.

I trust that this information will complete your records on this matter.

Sincerely,

A handwritten signature in cursive script, reading "C. B. Fuessenich".

Cleveland B. Fuessenich
COMMISSIONER

CBF:dcl

CC: Honorable Arnold Markle
State's Attorney
New Haven, Connecticut



DEPARTMENT OF POLICE SERVICE
NEW HAVEN, CONNECTICUT 06510

51.

BIAGIO DI LIETO, Chief of Police
BARTHOLOMEW F. GUIDA, Mayor

BOARD OF POLICE COMMISSIONERS
Luca Celentano, M.D., President

Frank Mongillo, Jr.

David Gollinger

Thomas Antollino

Clarence Butcher

December 10, 1974

Honorable Peter Clark
United States Attorney
Post Office Building
Church Street
New Haven, Connecticut

Dear Sir:

In reply to your inquiry, this is to inform you that no member of the New Haven Police Department at any time engaged in or was part of any electronic surveillance of James Haskins, Harold Simmons or Michael Alston.

Sincerely,

Biagio Di Lieto

BIAGIO DI LIETO
Chief of Police

/js

RECEIVED

DEC 16 1974

U. S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

STATE OF NEW YORK



NEW YORK STATE POLICE
STATE CAMPUS
ALBANY, N. Y., 12226

52.

January 16, 1975

Mr. Peter C. Dorsey
United States Attorney
District of Connecticut
United States Department of
Justice
141 Church Street
P.O. Box 1824
New Haven, Connecticut 06508

RECEIVED

JAN 20 1975

U. S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

Attention: Peter A. Clark
Assistant United States Attorney

Re: United States v. Harold
Simmons, James Haskins,
Michael Alston and Timothy
Adams;
Criminal No. N-74-65

Dear Sir:

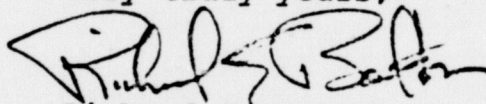
Please refer to your letter of January 10, 1975,
captioned as above, and the copy of your letter of December 3,
1974.

This will confirm my telephone conversation with
Assistant United States Attorney Peter A. Clark, today, during
which I informed him of a search made of the Division of State
Police files for any record involving the defendants named.
There is no record in the Division files involving any of these
subjects and nothing particularly that has any reference to
electronic surveillance. I personally review all eavesdropping
warrants and I do not know or recall these names. I have caused
a search to be made of the file of eavesdropping warrants and
applications and find no reference. I have made a search of the
Central Files of the Division of State Police at the Headquarters,
Albany, and find no reference. I have caused a more particular
inquiry to be made in Troop K, Poughkeepsie, which is the State
Police Troop bordering Connecticut and the Organized Crime Task
Force in White Plains which covers the southern and eastern part of
the State and find no reference to the subjects.

- 2 -

If there is any further information that you require,
please address your inquiry to me.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard E. Bolton", written in a cursive style.

Richard E. Bolton
Counsel